

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ELLIOTT PAYNE RILEY,	§	
(TDCJ-CID #784600)	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO. H-11-4282
	§	
RICK THALER,	§	
Respondent.	§	

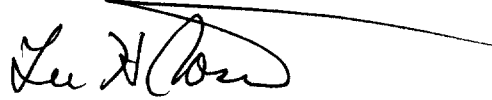
MEMORANDUM AND OPINION

The petitioner, Elliott Payne Riley, sought habeas corpus relief under 28 U.S.C. § 2254 to challenge his 1997 conviction for aggravated assault. (Docket Entry No. 1). Riley sought permission to file a second or successive petition, explaining that he has suffered from a mental illness since 1977, which prevented him from filing his previous federal habeas petition correctly. (Docket Entry No. 1, p. 5). This court denied the motion for leave to file a second or successive petition in January 2012. In its opinion, this court explained that under the statute, Riley must file his motion with the United States Court of Appeals for the Fifth Circuit, this court. Riley's motion was denied and the suit dismissed without prejudice, for lack of jurisdiction. (Docket Entry No. 4). This court also denied a certificate of appealability because Riley could not make a substantial showing of the denial of a constitutional right or that reasonable jurists would find it debatable whether the district court was correct in its procedural ruling.

Riley moved for relief from this court's judgment. His motion for relief appears to explain that his mental illness has caused him to forget things. This court attaches its prior opinion explaining to Riley what he must do to seek permission to file a second or successive petition challenging his aggravated assault conviction.

Riley's motion for relief, Docket Entry No. 9, is denied.

SIGNED on January 7, 2013, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge